CHAIRMAN POMBO'S EXPLANATION OF POMBO-RAHALL ANS

The Restricting Indian Gaming to Homelands of Tribes (RIGHT) Act of 2006

This amendment, which is cosponsored by the Ranking Democrat Member, Mr. Rahall, makes a number of technical and clarifying changes to H.R. 4893. It also makes several substantive changes that will address a number of valid concerns raised by Members, by officials with state and county governments, and by tribes and private citizens.

Before I describe these substantive changes, I want to explain why the Ranking Member and I have decided to sponsor an amendment in the nature of a substitute.

The Indian Gaming Regulatory Act and H.R. 4893 are complicated enough. After reviewing the complexity of many amendments being filed, it became clear that in order to fashion a bill that is fair and balanced, a substitute is necessary to respond to Member concerns. This will eliminate confusion, and I hope it will make the debate smooth, and result in legislation that restores the spirit of what Congress intended when it passed IGRA in 1988.

I will now describe the substantive changes made by the amendment. First, the amendment creates a short title: The "Restricting Indian Gaming to Homelands of Tribes Act of 2006" – or, the "RIGHT Act."

The RIGHT Act makes changes to restrictions on newly recognized, restored or landless tribes that seek gaming rights on new Indian trust land. There are three hurdles that drew the most scrutiny from Members and which, in the careful analysis by Mr. Rahall and myself, should be revised.

One hurdle is subparagraph (C) of subsection (b)(1), which requires the concurrence of the State legislature in which gaming will be conducted. This is a problem because IGRA intends the Governor of a State to be a primary actor when deciding whether or not to concur with gaming rights. But in some states, the legislature has a role. Our amendment requires the concurrence of the Governor in conformance with the laws of the State.

The provision in subparagraph (D) provides tribes within 75 miles of a proposed project with veto power. The tribal veto is unnecessary for the bill to work, and it has raised a host of legal issues that do not justify keeping it in. Our amendment strikes this provision.

Subparagraph (E) requires a tribally-financed local referendum, and a memorandum of understanding. Because the local referendum may result in some unintended consequences, our amendment removes it. The MOU, however, is critical to meet our purpose in advancing H.R. 4893 because we want to ensure that a county forced to deal with the impacts of a casino receives its required mitigation directly from the tribe. Right

now, the county has to ask a state government for mitigation assistance, and it doesn't always get it. The amendment refines the MOU and makes it work better for all parties.

The amendment further improves technical aspects of the collocation or gaming zone provision. One substantive change is that the State of Arizona is exempted from the collocation provisions. We are informed that Arizona Tribes and the Delegation do not like this provision in their State, and so this amendment complies with their wishes. Congress has state-specific language throughout statutes dealing with tribes, so this sets no new precedent.

Finally, the amendment adds language at the end of the bill to deal with tribes that submitted petitions or requests to acquire land in trust for gaming purposes in good faith before the introduction of H.R. 4893. In some cases, tribes began the process of preparing their land acquisitions years before off-reservation gaming became a major issue. They have carefully operated within the rules and in some cases, worked with the local people.

The amendment allows them to proceed under the existing rules, but only when the following conditions are met:

They submitted their applications to the Interior Department by March 7, 2006. These have to be fee-to-trust petitions or written requests for gaming eligibility on existing trust lands. They cannot be simple letters of intent.

The applications cannot involve a land claim. The lands involved must be in the state where the tribe resides and exercises government authority, and not across state lines. Finally, the lands must meet the test of a geographical, historical and temporal nexus.

I believe these changes reflect a fairly broad consensus for many of our Members and that no further amendments are really necessary. It is likely that Members, or rather lawyers, will find a few technicalities to nitpick. We can deal with these as we move forward, so let's pass this substitute and report a bill that we can support in September.